

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH  
CAROLINA  
WESTERN DIVISION  
No. 5:19-cv-249-FL**

MATTHEW BRADLEY,	)
Plaintiff,	)
)	)
- against -	)
)	)
)	)
ANALYTICAL GRAMMAR, INC.	)
)	)
)	)
Defendant.	)

**MOTION TO QUASH AND FOR A PROTECTIVE ORDER**

NOW COME the Liebowitz Law Firm, PLLC (“LLF”) and Richard Liebowitz (“Liebowitz” and collectively with LLF “Moving Parties”), former counsel for plaintiff Matthew Bradley, by and through undersigned counsel, pursuant to Fed. R. Civ. P. 26 and 45, and respectfully move this Court to quash three Subpoenas Duces Tecum, dated 1 June 2021 (collectively “Booth Subpoenas”), issued by Dan Booth (“Booth”), attorney for Defendant Analytical Grammar, Inc. In support hereof, the Moving Parties respectfully show unto this Court as follows:

1. On 18 June 2019, Bradley, through counsel including Liebowitz, commenced this action alleging claims for copyright infringement. (Compl., ECF No. 1).
2. On 3 March 2021, this Court granted Defendant’s Motion for Summary Judgment and dismissed Bradley’s two-count action. (Order, ECF Nos. 63 & 64).
3. On 1 June 2021, Booth issued and served the Booth Subpoenas, consisting of the following:

a. Subpoena to Richard Liebowitz, a true and accurate copy of which is attached hereto as Exhibit 1 and incorporated herein;

b. Subpoena to Liebowitz Law Firm LLC, a true and accurate copy of which is attached hereto as Exhibit 2 and incorporated herein; and,

c. Subpoena to JPMorgan Chase Bank, N.A., LLF's banking institution, a true and accurate copy of which is attached hereto as Exhibit 3 and incorporated herein.

4. The Subpoena issued to Liebowitz is not signed by the Clerk of Court or any attorney.

5. Upon information and belief, Booth served the Booth Subpoenas by emailing them to Liebowitz on 1 June 2021.

6. "A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena." Fed. R. Civ. P. 45(d)(1). The court may order an attorney who fails to comply with this duty to pay the attorneys' fees of the subpoenaed party. Fed. R. Civ. P. 45(d)(1).

7. Under Rule 45, district courts are required to quash or modify a subpoena that "subjects a person to undue burden." Fed. R. Civ. P. 45(d)(3)(A)(iv).

8. Under Rule 26, this Court may enter an order to protect a party or person from annoyance, oppression, and undue expense. *See* Fed. R. Civ. P. 26(c)(1).

9. The Booth Subpoenas demand production of the Moving Parties' confidential, proprietary, and financial documents unrelated to any of claims or defenses in this action.

10. The Booth Subpoenas demand production of irrelevant documents.

11. The Booth Subpoenas are overly broad and impose an undue burden on the Moving Parties.

12. A protective order is necessary to protect the Moving Parties from annoyance, oppression, and undue burden and expense, and there is good cause for entry of a protective order.

13. This Motion is made upon the exhibits attached hereto, the annexed declarations of Luke Dalton, dated June 15, 2021, and the exhibits attached thereto; the memorandum of law in support hereof; and the pleadings and prior proceedings herein, and any hearing to be held in this matter.

WHEREFORE, the Moving Parties respectfully pray the court for an order quashing the Booth Subpoenas, for entry of a protective order that no response is required to the Booth Subpoenas, for an Order requiring Booth to pay the Moving Parties' costs and attorneys' fees related to the Booth Subpoenas, including costs and attorneys' fees incurred in relation to this Motion, and for such other and further relief the Court deems just and proper under the circumstances.

Respectfully submitted, this the 15th day of June, 2021.

/s/ LUKE A. DALTON  
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PLLC and Richard Liebowitz*

## **CERTIFICATE OF SERVICE**

I hereby certify that on this June 15th, 2021, I electronically filed the foregoing Motion to Quash and For a Protective Order with the Clerk of Court using the CM/ECF system, which will serve the document on registered users, and that I have emailed the document to the following:

Susan Freya Olive  
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/s/ LUKE A. DALTON

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